2:Scott G-5 (1870's-1909)1910 AP1 Burma
Burmese AP4

582 643 Dammathat. The sovereign always married at least one half-sister to ensure the purity of the royal blood, but, rather illogically, the issue of this union was not by any means necessarily heir to the throne. The son whom the king, or his ministers after his death, named, succeeded, or more commonly still, the son who could best maintain his position by force.

● 586 The liberty of divorce is practically unrestricted, except by the elaborate laws respecting the division of property. According to the Laws of Menu a woman may obtain a divorce among other reasons for the following: When her husband is poor and unable to support her; when he is always ailing; when he does not work and leads an idle life; when he is incapacitated by reason of old age; when he becomes a cripple after marriage.

And a man may obtain a divorce if his wife has no male children, if she has no love for her husband, or if she persists in going to a house where he tells her she must not visit, and so on.

The lawgiver seems in fact to have laid down that marriage is a civil contract which either party can dissolve; but, unless with good reason, the one that wishes to separate must suffer in property, more or less severely, according as the plea is good or bad.

Property, for this purpose, is said to be of three kinds. Pa-yin, property acquired by, or in possession of, persons before marriage. Let-htet-pwa, property acquired by husband or wife after marriage. Tin-thi, property inherited or obtained by gift. Pa-yin after marriage becomes hnit-pa-sôn, that is, the joint property of husband and wife, but only when it is agreed between them either before or after marriage that the property shall be put together for the mutual benefit.

In the event of a divorce both parties take away whatever pa-yin they may have had on marriage, and the let-htet-pwa is divided either by mutual agreement, or by the decision of the village elders who sanction the separation.

586 593 But divorces are far from being so common as most writers would have us believe. The warmth of family affection is one of the strongest traits of the race, and the

2:Scott G-5 (1870's-1909)1910 AP1 Burma
Burmese AP4

586
593
562

Burman is always very kind to his wife, while every girl is taught from her earliest years to look with the highest respect upon man as man, and to defer in all things to his judgment, though she is far more free than the Indian wife. The Burman consults with his partner in all his affairs, public and private, and often is entirely guided by her. She keeps the shop that is to be found in almost every house in the country towns, and usually makes far more money than the goodman himself. It is a simple matter to blame the Burmese for easy marriage customs, but the system speedily puts an end to unhappy and ill-assorted unions, and illegitimate children are exceedingly rare. Finally, unless there is good known cause for a separation the divorced parties are not by any means looked upon with a favourable eye. The man who enters a monastery to get rid of a wife goes by the contemptuous name of taw-twet "jungle runaway," for the rest of his life, while the ta-ku-lat, the *divorcée*, is a perennial subject of joke to the jester in the play:—

586

> She that's neither maid, married, nor widow,
> Fits all men as a pot does it's lid, O.

That is to say, a divorced woman needs small wooing. Such a woman will not hesitate to cut off the bya-bazan, the lappets of hair that fall down over the ears, the last resource of the despairing and unwilling celibate.

581
828

The literature of marriage is not inconsiderable. The tattooing ceremonies, a-nu se, love-philtres, charms, and what not, are referred to elsewhere. There remain a number of singular matters to be taken note of by those who would be happy in married life. Thus the girls are told how they may ascertain a man's character by the colour of his heart's blood—though how they are to ascertain this colour without injury to the subject of inquiry is not mentioned. A lustful man's blood is dark red; a cross, quarrelsome man's is so dark as almost to be black; a lazy man's like elephant's water; a rough-speaking man's like boiled peas: a charitable man's like the flower of the mahā hlega, a species of bauhinia; while a learned man's heart's blood is beautiful as the ruby.

Similarly useless knowledge is the statement that an

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

points, hardly even in minor points, does the law discriminate against women.

The law as regards marriage and inheritance and divorce will come each in its own place. It is very much the same both for the man and the woman.

The criminal law was the same for both; I have tried to find any difference, and this is all I have found: A woman's life was less valuable than a man's. The price of the body, as it is called, of a woman was less than that of a man. If a woman were accidentally killed, less compensation had to be paid than for a man. I asked a Burman about this once.

'Why is this difference?' I said. 'Why does the law discriminate?'

'It isn't the law,' he said, 'it is a fact. A woman is worth less than a man *in that way*. A maid-servant can be hired for less than a manservant, a daughter can claim less than a son. They cannot do so much work; they are not so strong. If they had been worth more, the law would have been the other way; of course they are worth less.'

And so this sole discrimination is a fact, not dogma. It is a fact, no doubt, everywhere. No one would deny it. The pecuniary value of a woman is less than that of a man. As to the soul's value, that is not a question of law, which confines itself to material affairs. But I suppose all laws have been framed out of the necessities of mankind. It was the incessant fighting during the times when our laws grew slowly into shape, the necessity of not allowing the possession of land, and the armed

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

heard of it; and although I thought my heart would break, I did not say anything. I told my husband, "Bring her here, let us live all together; it will be best so." I always did for the best, thakin. So he brought her, and she came to live with us a week ago. Ah, thakin, I did not know! She tramples on me. My head is under her feet. My husband does not care for me, only for her. And to-day, this evening, they went out together for a walk, and my husband took with him the concertina. As they went I could hear him play upon it, and they walked down through the trees, he playing and she leaning upon him. I heard the music.'

Then she began to cry bitterly, sobbing as if her heart would break. And the sunset died out of the sky, and the shadows took all the world and made it gray and dark. No one said anything, only the woman cried.

'Thakin,' she said at last, 'what am I to do? Tell me.'

Then my friend spoke.

'You can divorce him,' he said; 'you can go to the elders and get a divorce. Won't that be best?'

'But, thakin, you do not know. We are both Christians; we are married for ever. We were both at the mission-school in Rangoon, and we were married there, "for ever and for ever," so the padre said. We are not married according to Burmese customs, but according to your religion; we are husband and wife for ever.'

My friend said nothing. It seemed to him useless to speak to her of the High Court, five hundred

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

586
177
779

miles away, and a decree nisi; it would have been a mockery of her trouble.

'Your husband had no right to take a second wife, if you are Christians and married,' he said.

'Ah,' she answered, 'we are Burmans; it is allowed by Burmese law. Other officials do it. What does my husband care that we were married by your law? Here we are alone with no other Christians near. But I would not mind so much,' she went on, 'only she treads me under her feet. And he takes her out and not me, who am the elder wife, and he plays music to her; and I did all for the best. This trouble has come upon me, though all my life I have always acted for the best.'

There came another footstep up the stair, and a man entered. It was her husband. On his return he had missed his wife, and guessed whither she had gone, and had followed her. He came alone.

Then there was a sad scene, only restrained by respect for my friend. I need not tell it. There was a man's side to the question, a strong one. The wife had a terrible temper, a peevish, nagging, maddening fashion of talking. She was a woman very hard for a man to live with.

Does it matter much which was right or wrong, now that the mischief was done? They went away at last, not reconciled. Could they be reconciled? I cannot tell. I left there next day, and have never returned.

586
177

There they had lived for many years among their own people, far away from the influence that had come upon their childhood, and led them into strange ways. And now all that was left of that influence

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

was the chain that bound them together. Had it not been for that they would have been divorced long ago; for they had never agreed very well, and both sides had bitter grounds for complaint. They would have been divorced, and both could have gone their own way. But now, what was to be done?

That is one of my memories: this is another.

There was a girl I knew, the daughter of a man who had made some money by trading, and when the father died the property was divided according to law between the girl and her brother. She was a little heiress in her way, owning a garden, where grew many fruit-trees, and a piece of rice land. She had also a share in a little shop which she managed, and she had many gold bracelets and fine diamond earrings. She was much wooed by the young men about there, and at last she married. He was a young man, good-looking, a sergeant of police, and for a time they were very happy. And then trouble came. The husband took to bad ways. The knowledge that he could get money for nothing was too much for him. He drank and he wasted her money, and he neglected his work, and at last he was dismissed from government employ. And his wife got angry with him, and complained of him to the neighbours; and made him worse, though she was at heart a good girl. Quickly he went from bad to worse, until in a very short time, six months, I think, he had spent half her little fortune. Then she began to limit supplies—the husband did no work at all—and in consequence he began to neglect her; they had many quarrels, and her tongue was sharp, and matters got worse and worse until they

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

586 were the talk of the village. All attempts of the
593 headman and elders to restrain him were useless.
[626] He became quarrelsome, and went on from one thing to another, until at last he was suspected of being concerned in a crime. So then when all means had failed to restore her husband to her, when they had drifted far apart and there was nothing before them but trouble, she went to the elders of the village and demanded a divorce. And the elders granted it to her. Her husband objected; he did not want to be divorced. He claimed this, and he claimed that, but it was all of no use. So the tie that had united them was dissolved, as the love had been dissolved long before, and they parted. The man went away to Lower Burma. They tell me he has become a cultivator and has reformed, and is doing well; and the girl is ready to marry again. Half her property is gone, but half remains, and she has still her little business. I think they will both do well. But if they had been chained together, what then?

586 You see that divorce is free. Anyone can obtain
428 it by appearing before the elders of the village and demanding it. A writing of divorcement is made out, and the parties are free. Each retains his or her own property, and that earned during marriage is divided; only that the party claiming the divorce has to leave the house to the other—that is the only penalty, and it is not always enforced, unless the house be joint property.

586 As religion has nothing to do with marriage,
789 neither has it with divorce. Marriage is a status, a partnership, nothing more. But it is all that

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

Divorce is a dissolution of that partnership. A Burman would not ask, 'Were they married?' but, 'Are they man and wife?' And so with divorce, it is a cessation of the state of marriage. 586 779

Elders tell me that women ask for divorce far more than men do. 'Men have patience, and women have not,' that is what they say. For every little quarrel a woman will want a divorce. 'Thakin, if we were to grant divorces every time a woman came and demanded it, we should be doing nothing else all day long. If a husband comes home to find dinner not cooked, and speaks angrily, his wife will rush to us in tears for a divorce. If he speaks to another woman and smiles, if he does not give his wife a new dress, if he be fond of going out in the evening, all these are reasons for a breathless demand for a divorce. The wives get cross and run to us and cry, "My husband has been angry with me. Never will I live with him again. Give me a divorce." Or, "See my clothes, how old they are. I cannot buy any new dress. I will have a divorce." And we say, "Yes, yes; it is very sad. Of course, you must have a divorce; but we cannot give you one to-night. Go away, and come again in three days or in four days, when we have more time." And they go away, thakin, and they do not return. Next day it is all forgotten. You see, they don't know what they want; they turn with the wind—they have no patience.' 586 562 157

Sometimes they repent too late. Here is another of my memories about divorce: 586 573

There was a man and his wife, cultivators, living in a small village. The land that he cultivated

16 Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

586 belonged to his wife, for she had inherited it from
593 her father, together with a house and a little money.
733 The man had nothing when he married her, but he was hardworking and honest and good-tempered, and they kept themselves going comfortably enough. But he had one fault: every now and then he would drink too much. This was in Lower Burma, where liquor shops are free to Burmans. In Upper Burma no liquor can be sold to them. He did not drink often. He was a teetotaler generally; but once a month, or once in two months, he would meet some friends, and they would drink in good fellowship, and he would return home drunk. His wife felt this very bitterly, and when he would come into the house, his eyes red and his face swollen, she would attack him with bitter words, as women do. She would upbraid him for his conduct, she would point at him the finger of scorn, she would tell him in biting words that he was drinking the produce of her fields, of her inheritance; she would even impute to him, in her passion, worse things than these, things that were not true. And the husband was usually good-natured, and admitted his wrong, and put up with all her abuse, and they lived happily till the next time.

After this had been going on for a few years, instead of getting accustomed to her husband, instead of seeing that if he had this fault he had many virtues, and that he was just as good a husband as she was a wife, or perhaps better, her anger against him increased every time, till now she would declare that she would abide it no longer, that he was past endurance, and she would have a divorce; and

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

several times she even ran to the elders to demand it. But the elders would put it by. 'Let it wait,' they said, 'for a few days, and then we will see'; and by that time all was soothed down again. But at last the end came. One night she passed all bounds in her anger, using words that could never be forgiven; and when she declared as usual that she must have a divorce, her husband said: 'Yes, we will divorce. Let there be an end of it.' And so next day they went to the elders both of them, and as both demanded the divorce, the elders could not delay very long. A few days' delay they made, but the man was firm, and at last it was done. They were divorced. I think the woman would have drawn back at the last moment, but she could not, for very shame, and the man never wavered. He was offended past forgiveness.

So the divorce was given, and the man left the house and went to live elsewhere.

In a few days—a very few days—the wife sent for him again. 'Would he return?' And he refused. Then she went to the headman and asked him to make it up, and the headman sent for the husband, who came.

The woman asked her husband to return.

'Come back,' she said, 'come back. I have been wrong. Let us forgive. It shall never happen again.'

The man shook his head.

'No,' he said; 'a divorce is a divorce. I do not care to marry and divorce once a week. You were always saying, "I will divorce you, I will divorce you." Now it is done. Let it remain.'

The woman was struck with grief.

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

586 'I did not know,' she said; 'I was hot-tempered. I was foolish. But now I know. Ah! the house is so lonely! I have but two ears, I have but two eyes, and the house is so large.'

But the husband refused again.

'What is done, is done. Marriage is not to be taken off and put on like a jacket. I have made up my mind.'

[762] Then he went away, and after a little the woman went away too. She went straight to the big, lonely house, and there she hanged herself.

You see, she loved him all the time, but did not know till too late.

Men do not often apply for divorce except for very good cause, and with their minds fully made up to obtain it. They do obtain it, of course.

586 177 647 With this facility for divorce, it is remarkable how uncommon it is. In the villages and amongst respectable Burmans in all classes of life it is a great exception to divorce or to be divorced. The only class amongst whom it is at all common is the class of hangers-on to our Administration, the clerks and policemen, and so on. I fear there is little that is good to be said of many of them. It is terrible to see how demoralizing our contact is to all sorts and conditions of men. To be attached to our Administration is almost a stigma of disreputableness. I remember remarking once to a headman that a certain official seemed to be quite regardless of public opinion in his life, and asked him if the villagers did not condemn him. And the headman [554] answered with surprise: 'But he is an official'; as if officials were quite *super grammaticam* of morals.

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

Yet this is the class from whom we most of us obtain our knowledge of Burmese life, whom we see most of, whose opinions we accept as reflecting the truth of Burmese thought. No wonder we are so often astray.

Amongst these, the taking of second, and even third, wives is not at all uncommon, and naturally divorce often follows. Among the great mass of the people it is very uncommon. I cannot give any figures. There are no records kept of marriage or of divorce. What the proportion is it is impossible to even guess. I have heard all sorts of estimates, none founded on more than imagination. I have even tried to find out in small villages what the number of divorces were in a year, and tried to estimate from this the percentage. I made it from 2 to 5 per cent. of the marriages. But I cannot offer these figures as correct for any large area. Probably they vary from place to place and from year to year. In the old time the queen was very strict upon the point. As she would allow no other wife to her king, so she would allow no taking of other wives, no abuse of divorce among her subjects. Whatever her influence may have been in other ways, here it was all for good. But the queen has gone, and there is no one left at all. No one but the hangers-on of whom I have spoken, examples not to be followed, but to be shunned.

But of this there is no manner of doubt, that this freedom of marriage and divorce leads to no license. There is no confusion between marriage or non-marriage, and even yet public opinion is a very great check upon divorce. It is not considered right to

16:Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

divorce your husband or your wife without good—very good and sufficient cause. And what is good and sufficient cause is very well understood. That a woman should have a nagging tongue, that a man should be a drunkard, what could be better cause than this? The gravity of the offence lies in whether it makes life unbearable together, not in the name you may give it.

The facility for divorce has other effects too. It makes a man and a woman very careful in their behaviour to each other. The chain that binds them is a chain of mutual forbearance, of mutual endurance, of mutual love; and if these be broken, then is the bond gone. Marriage is no fetter about a man or woman, binding both to that which they may get to hate.

In the first Burmese war in 1825 there was a man, an Englishman, taken prisoner in Ava and put in prison, and there he found certain Europeans and Americans. And after a time, for fear of attempts at escape, these prisoners were chained together two and two. And he tells you, this Englishman, how terrible this was, and of the hate and repulsion that arose in your heart to your co-bondsman. Before they were chained together they lived in close neighbourhood, in peace and amity; but when the chains came it was far otherwise, though they were no nearer than before. They got to hate each other.

And this is the Burmese idea of marriage, that it is a partnership of love and affection, and that when these die, all should be over. An unbreakable marriage appears to them as a fetter, a bond, something hateful and hate inspiring. You see, they are

16;Fielding Hall G-3 (1885-1890) 1898 AP1 Burma
Burmese AP4

a people who love to be free: they hate bonds and dogmas of every description. It is always religion that has made a bond of marriage, and here religion has not interfered. Theirs is a religion of free men and free women.

581
586

23: Brant & Mi Mi Khaing E, I-5 (1949-1950)1951
AP1 Burma
Burmese AP4

593 husband's kinfolk. Post-marital residence is independent and is decided very [591] largely on the basis of economic opportunity. The wife's opportunities for social intercourse with her family of orientation are, of course, greatest when residence is established in her home village; if, however, a couple from different villages marry and find it most opportune to settle in the husband's community, the [574] chances are that the wife will maintain contact with her family of orientation by [582] visits from time to time; such marriages seldom unite persons from villages that are very far apart. The very structural features of bilaterality and absence of extension militate against inequality and male domination.

562 Burmese culture is frequently remarked for the equality of the sexes, in con-593 trast to the neighboring cultures of India and China. This status of the sexes seems to be the resultant historically of two patterns of thought. One is an apparently very old, pre-Buddhist emphasis upon equality, involving equal inheri-[428] tance, equal sharing of the property brought to the marriage, equal division of [586] property upon divorce, a prominent female role in social and economic life, and an absence of transmission of surnames. The other thought pattern dates from the superimposition of Buddhism upon older Burmese conceptions: whatever [177] ideas of male superiority exist in Burmese life stem from Buddhist notions of [775] reincarnation. Although Buddha never expressed himself explicitly on the matter, it is taken for granted that only a male can attain Nirvana, since Gautama Buddha, who attained that state, was a male.

462 In the family household the wife's role includes not only such routine tasks as 592 the preparation of food and serving of meals, keeping the house orderly and clean, and looking after small children; very often it involves control of the family income and the making of all important decisions as to expenditures.

593 Certain observances and taboos, reflective of deference to males, are expected 784 of the female partner in marriage. She is careful that her lower garments do not touch her husband's bed or his personal belongings; she avoids touching her husband's head. It is believed that the breaking of such taboos may ruin the husband's success and glory, especially his spiritual attainments. These injunctions are followed as a matter of course by Burmese wives and will be broken deliberately only as an act of spite by a woman who wishes to harm or lower her husband for some reason.

593 Despite the various equalitarian aspects of husband-wife relations, there is 837 a tendency towards a double standard of sexual behavior. A husband who has reason to believe that his wife is engaging in extra-marital affairs is very likely [586] to display violent anger, beat her, and break up the marriage. The wife of a

25: Ferrars E-5 (ca. 1890) 1901 AP1 Burma
Burmese AP4

said to have *stolen*. The vast majority of couples go through life faithfully and helpfully. The best influences of regular family life are developed. The dissolutions of marriage which take place are chiefly on account of incompati-

155. PLEASURE PARTY BY BOAT.

bility. Sometimes the husband and wife merely drift apart. Such a separation, when of long standing, is accepted and the parties are free to marry again. In acute and irreconcilable differences the parties apply to the elders of the place for divorce. It becomes the elders' duty to make three efforts to dissuade the couple from their purpose. Failing in these, they pronounce separation (*kwá hyí*). Pickled tea is eaten, as in the case of the marriage. The boys of the union go with the father, the girls with the mother. Common goods are divided equally; her dower and the proceeds of her independent trade and investments are at the woman's own disposal from first to last. When she can manage—as she often contrives to do—the mother keeps and provides for all her children, but they retain a lien on the father's support. There is no woman so well able to shift for herself as the woman of Burma. Her independent status would seem to be the corollary of her independent ability to manage by herself. Nowhere else is the wife more prized; nowhere is woman better able to make terms with man. Although under the Hindu code of Manú which the Burmans nominally follow, the status of woman is only the Indian

156. PLEASURE PARTY BY CART.

30: Maung Htin Aung E-4 (no date) 1953 AP1 Burma
Burmese AP4

671 her own choice. The head of the Burmese family can also give
593 away children under the age of puberty or majority to another
597 family for adoption, but when the child attains the age of puberty or majority, he or she has the option to choose in which family (i.e. his original family or his adoptive family) he
671 will remain. Acquisitions by members of the family accrue
593 to the family, but as in Roman and Hindu laws, certain classes
428 of acquisition by members of the family accrue to the acquirer and not to the family. Gifts from grandparents, from the king, and in certain cases, from strangers, and earnings through exercise of skill in the arts and in astrology, medicine, advocacy, and alchemy accrue to the acquirer. When a member of the family wishes to leave the family, there is no necessity to gain the assistance of a court of law. By mutual consent among the members, he is permitted to leave and he is given his share of the family estate. When the whole family decides to break up also, no formality is required, and by general consent, the family estate is divided between the members according to the rules of law pertaining to the partition of an estate into various shares.

671 One of the main features of Burmese society is the high
562 status of its women. Unlike the situation in Hindu or Chinese society, the Burmese woman has never been a mere chattel at the disposal of the Burmese man. Since prehistoric times Burmese women have enjoyed an equality of status, rank, and opportunity with men. Under the Burmese kings, the women held high office, and served often as headman, chief-
[773] tainess, and queen. In Burmese folktales dealing with strange disputes and wonderful decisions, which are known as Juristic Tales, the judge is a woman, namely Princess Learned-in-the-Law. At the present day, all the learned professions are open to women, and approximately 25 per cent of the students at the University of Rangoon are women.

671 The high status of women in Burmese society is reflected
583 in the Burmese customary law relating to marriage, divorce,
586 and inheritance. In Burmese law, marriage is purely a civil
428

contract, founded on the consent of the man and woman to openly "eat and live together." Religion has nought to do with the marriage, and no special ceremony is necessary, and therefore in a court of law proof of marriage is not to be found in certificates of documents or evidence of a marriage ceremony, but in the testimony of witnesses that the man and woman lived together as man and wife. No Burmese man or woman can be forced into marriage without his or her consent. After a son has attained the age of puberty, or a daughter the age of majority, even the consent of the parents is no longer necessary. Divorce results without much formality when both the husband and the wife mutually agree to part. Burmese jurists in their writings often describe the husband as the lord of the wife, but that seems to be mere opinion, and they often advise the wife to obey her husband, but it does not mean that their advice is always followed. The wife has a right to divorce her husband without his consent, if he is guilty of cruelty or serious matrimonial misconduct. On divorce, the wife takes a substantial share of the joint estate, and if she should marry again, she remains absolute owner of her estate from her previous marriage, and does not share it with her second husband. But although divorce therefore is comparatively easy, and the wife enjoys an important position in the family, divorces have always been rare, and an atmosphere of cordiality and harmony prevails in the Burmese family.

Burmese women have always possessed full rights of inheritance. As the husband and wife are the heirs of each other, on the husband's death, the wife inherits a major share of the family estate, and full authority as head of the family if the family decides not to disintegrate and partition the estate. On the death of the surviving parent, the daughters have full rights of inheritance in competition with their brothers. As the Burmese customary law has never recognized a right to dispose of property by will, these rights of inheritance cannot be defeated in any way.

These, then, briefly are the main features of Burmese cus-